

REMARKS

Applicants wish to thank the Examiner for the indication that Claims 8 and 19 would be allowable if rewritten into independent form. Applicants have chosen not to rewrite Claims 8 and 19 into independent form at this time since it is believed their base claims are allowable for at least the reasons set forth below.

Claims 1 to 7, 9 to 18 and 20 to 22 have been rejected under 35 U.S.C. § 103(a) over U.S. Publication No. 2005/0237928 (Le Scolan) in view of U.S. Patent No. 6,278,718 (Eschholz). The rejections are respectfully traversed and the Examiner is requested to reconsider and withdraw the rejections in light of the following comments.

The rejections are traversed on the grounds that Le Scolan is not prior art to the subject application in light of 35 U.S.C. § 103(c). In this regard, it is noted that, in view of the present application's filing date of November 21, 2003, and Le Scolan's publication date of October 27, 2005 in conjunction with its earliest effective filing date of May 9, 2000, Le Scolan qualifies as prior art to the present application only under 35 U.S.C. § 102(e). Indeed, the in the August 27, 2007 Office Action, Le Scolan was applied under § 102(e) in rejecting the claims.

In addition, both the present application and Le Scolan were, at the time of the present invention, commonly owned by Canon Kabushiki Kaisha (CKK). As evidence of such, an Assignment of the present invention to CKK has been recorded on August 10, 2004 at Reel 015666, Frame 0948. Le Scolan lists Canon Kabushiki Kaisha as the assignee on its face, and an assignment of that invention to CKK was recorded on August 14, 2000 at Reel 010998, Frame 0459.

Therefore, under 35 U.S.C. § 103(c), Le Scolan can not properly be applied as a reference against the subject application. Accordingly, Applicants request that the Examiner remove Le Scolan as a reference for the purposes of a rejection under § 103(a), and that the rejections be withdrawn.

In addition, Applicants wish to point out that, since the previous § 102(e) rejection was withdrawn and the present § 103(a) rejection issued instead, as rightly recognized in the Office Action, Le Scolan fails to teach certain features of the invention, which are allegedly taught by Eschholz instead. As such, neither Le Scolan alone, or Eschholz alone, are seen to teach the features of Claims 1, 9, 12 and 20.

In view of the foregoing, all of Claims 1 to 22 are believed to be allowable and the Examiner is requested to withdraw the rejections and pass the application to allowance.

REQUEST FOR ACKNOWLEDGMENT OF FOREIGN PRIORITY CLAIM

Applicants request that the Examiner provide and indication in the next communication acknowledging Applicants' claim to priority under 35 U.S.C. § 119, as well as receipt by the Office of the French priority document, which was submitted to the Office on February 25, 2004.

No other matters having been raised, the entire application is believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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